

**IN THE UNITED STATES DISTRICT COURT FOR
THE SOUTHERN DISTRICT OF WEST VIRGINIA**

HUNTINGTON DIVISION

ROBERT LEE LEGG, JR.,

Plaintiff,

v.

CIVIL ACTION NO. 3:20-0778

PUTNAM CO. SHERIFF OFFICE;
WESTERN REGIONAL JAIL;
PRIM CARE MEDICAL STAFF; and
OFFICER ROMAN,

Defendants.

MEMORANDUM OPINION AND ORDER

This action was referred to the Honorable Cheryl A. Eifert, United States Magistrate Judge, for submission to this Court of proposed findings of fact and recommendation, pursuant to 28 U.S.C. § 636(b)(1)(B). Magistrate Judge Eifert has submitted her Proposed Findings and Recommendations (“PF&R”) (ECF No. 16). Magistrate Judge Eifert recommends that the Complaint be dismissed, without prejudice, because Plaintiff has failed to provide sufficient factual allegations to state a viable claim. She further recommends denial of the Application to Proceed in forma pauperis (ECF No. 12); denial of the Motion for Appointment of Counsel (ECF No. 14); and denial of the Motion Granting Full Immunity (ECF No. 15).

After the Magistrate Judge issued her recommendations, Plaintiff filed objections (ECF No. 19) and renewed his prior motions for appointment of counsel and miscellaneous relief (ECF Nos. 17, 18). For the following reasons, the Court **DENIES** Plaintiff’s objections and pending motions, and **ADOPTS** the Magistrate Judge’s PF&R.

“[T]he Court may adopt, without explanation, any of the magistrate judge’s recommendations to which the prisoner does not object.” *Reynolds v. Saad*, No. 1:17CV124, 2018 WL 3374155, at *2 (N.D.W. Va. July 11, 2018) *aff’d*, 738 F. App’x 216 (4th Cir. 2018) (citing *Camby v. Davis*, 718 F.2d 198, 199 (4th Cir. 1983)). Failure to file specific objections waives review of both factual and legal questions. *See United States v. Schronce*, 727 F.2d 91, 94 & n.4 (4th Cir. 1984). Here, Plaintiff did not raise specific objections to Magistrate Judge Eifert’s PF&R. Rather, Plaintiff raised two vague arguments, neither of which justify rejection of the PF&R.

First, Plaintiff claims that he is eligible for appointment of counsel because he was found not competent to stand trial. The Court rejects this objection and denies the Motion for Appointment of Counsel for the same reasons Magistrate Judge Eifert provided in the PF&R and January 12, 2021 Order (ECF No. 11). Magistrate Judge Eifert correctly applied 28 U.S.C. § 1915(e), which allows the court the discretion to request an attorney to represent any person who is unable to afford counsel. 28 U.S.C. § 1915(e)(1). Only where a plaintiff’s case presents “exceptional circumstances” will the denial of a request for appointment of counsel be deemed an abuse of discretion. *Whisenant v. Yuam*, 739 F.2d 160, 163 (4th Cir.1984) (citing *Cook v. Bounds*, 518 F.2d 779 (4th Cir.1975)). As explained by Magistrate Judge Eifert, there are not “exceptional circumstances” for appointment of counsel because Plaintiff’s claims are frivolous. Moreover, although Plaintiff asserts that he is incompetent, the Court is satisfied that he is able to read, write, and understand the Magistrate Judge’s instructions to supplement his allegations (ECF Nos. 5, 9). His subsequent failure to supplement the Complaint and failure to specifically object to the PF&R’s Findings of Fact further supports Magistrate Judge Eifert’s conclusion.


The Court rejects Plaintiff’s second objection for the same reason. Plaintiff objects to Magistrate Judge Eifert’s recommended denial of his Application to Proceed in forma pauperis by

vaguely conveying his hope that the Court received his amended Application. The Court indeed received Plaintiff's amended Application (ECF No. 12). However, because his claims are frivolous and warrant dismissal, the amended Application is moot.

For the reasons stated above, the Court **DENIES** Plaintiff's Objection to the PF&R (ECF No. 19) and his renewed Motion for Appointment of Counsel (ECF No. 17); **ADOPTS AND INCORPORATES** the Findings and Recommendation of the Magistrate Judge (ECF No. 16); and **DISMISSES** the Complaint, without prejudice. The Court further **DENIES AS MOOT** Plaintiff's motion for discovery and other miscellaneous relief from the Putnam County Sheriff (ECF No. 18).

The Court **DIRECTS** the Clerk to **REMOVE** this matter from the docket of the Court, and to send a copy of this Order to counsel of record and any unrepresented parties.

ENTER: May 21, 2021



ROBERT C. CHAMBERS
UNITED STATES DISTRICT JUDGE